

By: Hancock
(Kuempel)

S.B. No. 2212

Substitute the following for S.B. No. 2212:

By: Kuempel

C.S.S.B. No. 2212

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain real estate sales, brokerage, and advertising
3 activities, certain functions of the Texas Real Estate Commission,
4 and the authorization of a ground lease with the Texas Facilities
5 Commission to construct or maintain a building.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter A, Chapter 1101, Occupations Code, is
8 amended by adding Section 1101.0045 to read as follows:

9 Sec. 1101.0045. EQUITABLE INTERESTS IN REAL PROPERTY. (a)
10 A person may acquire an option or an interest in a contract to
11 purchase real property and then sell or offer to sell the option or
12 assign or offer to assign the contract without holding a license
13 issued under this chapter if the person:

14 (1) does not use the option or contract to purchase to
15 engage in real estate brokerage; and

16 (2) discloses the nature of the equitable interest to
17 any potential buyer.

18 (b) A person selling or offering to sell an option or
19 assigning or offering to assign an interest in a contract to
20 purchase real property without disclosing the nature of that
21 interest to a potential buyer is engaging in real estate brokerage.

22 SECTION 2. Section 1101.156(b), Occupations Code, is
23 amended to read as follows:

24 (b) The commission may not include in rules to prohibit

1 false, misleading, or deceptive practices by a person regulated by
2 the commission a rule that:

3 (1) restricts the use of any advertising medium;

4 (2) restricts the person's personal appearance or use
5 of the person's voice in an advertisement;

6 (3) relates to the size or duration of an
7 advertisement used by the person; ~~[or]~~

8 (4) restricts the person's advertisement under an
9 assumed or ~~[a]~~ trade name that is authorized by a law of this state
10 and registered with the commission; or

11 (5) requires the term "broker," "agent," or a similar
12 designation or term, a reference to the commission, or the person's
13 license number to be included in the person's advertisement.

14 SECTION 3. Section 1101.652(b), Occupations Code, is
15 amended to read as follows:

16 (b) The commission may suspend or revoke a license issued
17 under this chapter or take other disciplinary action authorized by
18 this chapter if the license holder, while engaged in real estate
19 brokerage:

20 (1) acts negligently or incompetently;

21 (2) engages in conduct that is dishonest or in bad
22 faith or that demonstrates untrustworthiness;

23 (3) makes a material misrepresentation to a potential
24 buyer concerning a significant defect, including a latent
25 structural defect, known to the license holder that would be a
26 significant factor to a reasonable and prudent buyer in making a
27 decision to purchase real property;

1 (4) fails to disclose to a potential buyer a defect
2 described by Subdivision (3) that is known to the license holder;

3 (5) makes a false promise that is likely to influence a
4 person to enter into an agreement when the license holder is unable
5 or does not intend to keep the promise;

6 (6) pursues a continued and flagrant course of
7 misrepresentation or makes false promises through an agent or sales
8 agent, through advertising, or otherwise;

9 (7) fails to make clear to all parties to a real estate
10 transaction the party for whom the license holder is acting;

11 (8) receives compensation from more than one party to
12 a real estate transaction without the full knowledge and consent of
13 all parties to the transaction;

14 (9) fails within a reasonable time to properly account
15 for or remit money that is received by the license holder and that
16 belongs to another person;

17 (10) commingles money that belongs to another person
18 with the license holder's own money;

19 (11) pays a commission or a fee to or divides a
20 commission or a fee with a person other than a license holder or a
21 real estate broker or sales agent licensed in another state for
22 compensation for services as a real estate agent;

23 (12) fails to specify a definite termination date that
24 is not subject to prior notice in a contract, other than a contract
25 to perform property management services, in which the license
26 holder agrees to perform services for which a license is required
27 under this chapter;

1 (13) accepts, receives, or charges an undisclosed
2 commission, rebate, or direct profit on an expenditure made for a
3 principal;

4 (14) solicits, sells, or offers for sale real property
5 by means of a lottery;

6 (15) solicits, sells, or offers for sale real property
7 by means of a deceptive practice;

8 (16) acts in a dual capacity as broker and undisclosed
9 principal in a real estate transaction;

10 (17) guarantees or authorizes or permits a person to
11 guarantee that future profits will result from a resale of real
12 property;

13 (18) places a sign on real property offering the real
14 property for sale or lease without obtaining the written consent of
15 the owner of the real property or the owner's authorized agent;

16 (19) offers to sell or lease real property without the
17 knowledge and consent of the owner of the real property or the
18 owner's authorized agent;

19 (20) offers to sell or lease real property on terms
20 other than those authorized by the owner of the real property or the
21 owner's authorized agent;

22 (21) induces or attempts to induce a party to a
23 contract of sale or lease to break the contract for the purpose of
24 substituting a new contract;

25 (22) negotiates or attempts to negotiate the sale,
26 exchange, or lease of real property with an owner, landlord, buyer,
27 or tenant with knowledge that that person is a party to an

1 outstanding written contract that grants exclusive agency to
2 another broker in connection with the transaction;

3 (23) publishes or causes to be published an
4 advertisement [~~including an advertisement by newspaper, radio,~~
5 ~~television, the Internet, or display,~~] that:

6 (A) misleads or is likely to deceive the public;

7 (B) [~~7~~] tends to create a misleading impression;

8 (C) implies that a sales agent is responsible for
9 the operation of the broker's real estate brokerage business; [~~7~~]

10 or

11 (D) fails to include [~~identify~~] the name of the
12 broker for whom the license holder acts, which name may be the
13 licensed name, assumed name, or trade name of the broker as
14 authorized by a law of this state and registered with the commission
15 [~~person causing the advertisement to be published as a licensed~~
16 ~~broker or agent~~];

17 (24) withholds from or inserts into a statement of
18 account or invoice a statement that the license holder knows makes
19 the statement of account or invoice inaccurate in a material way;

20 (25) publishes or circulates an unjustified or
21 unwarranted threat of a legal proceeding or other action;

22 (26) establishes an association by employment or
23 otherwise with a person other than a license holder if the person is
24 expected or required to act as a license holder;

25 (27) aids, abets, or conspires with another person to
26 circumvent this chapter;

27 (28) fails or refuses to provide, on request, a copy of

1 a document relating to a real estate transaction to a person who
2 signed the document;

3 (29) fails to advise a buyer in writing before the
4 closing of a real estate transaction that the buyer should:

5 (A) have the abstract covering the real estate
6 that is the subject of the contract examined by an attorney chosen
7 by the buyer; or

8 (B) be provided with or obtain a title insurance
9 policy;

10 (30) fails to deposit, within a reasonable time, money
11 the license holder receives as escrow or trust funds in a real
12 estate transaction:

13 (A) in trust with a title company authorized to
14 do business in this state; or

15 (B) in a custodial, trust, or escrow account
16 maintained for that purpose in a banking institution authorized to
17 do business in this state;

18 (31) disburses money deposited in a custodial, trust,
19 or escrow account, as provided in Subdivision (30), before the
20 completion or termination of the real estate transaction;

21 (32) discriminates against an owner, potential buyer,
22 landlord, or potential tenant on the basis of race, color,
23 religion, sex, disability, familial status, national origin, or
24 ancestry, including directing a prospective buyer or tenant
25 interested in equivalent properties to a different area based on
26 the race, color, religion, sex, disability, familial status,
27 national origin, or ancestry of the potential owner or tenant; or

1 (33) disregards or violates this chapter.

2 SECTION 4. Section 1105.003(f), Occupations Code, is
3 amended to read as follows:

4 (f) Not later than August 31 of each fiscal year, the agency
5 shall remit [~~\$750,000~~] to the general revenue fund the sum of
6 \$750,000 minus amounts expended each fiscal year until September 1,
7 2029, to construct or maintain a building in the Capitol Complex,
8 including amounts expended for repayment of a construction loan, to
9 be developed, constructed, maintained, and operated in conjunction
10 with the Texas Facilities Commission and subject to Chapters 443,
11 2165, and 2166, Government Code, at 203 West Martin Luther King,
12 Jr., Boulevard designated as Parking Lot 19.

13 SECTION 5. Subchapter D, Chapter 5, Property Code, is
14 amended by adding Section 5.086 to read as follows:

15 Sec. 5.086. EQUITABLE INTEREST DISCLOSURE. Before entering
16 into a contract, a person selling an option or assigning an interest
17 in a contract to purchase real property must disclose to any
18 potential buyer that the person is selling only an option or
19 assigning an interest in a contract and that the person does not
20 have legal title to the real property.

21 SECTION 6. Notwithstanding Section 2165.259, Government
22 Code, for purposes of constructing a building in the Capitol
23 Complex pursuant to Section 1105.003(f), Occupations Code, as
24 amended by this Act, the Texas Facilities Commission has the
25 authority to enter into a ground lease with the Texas Real Estate
26 Commission pursuant to Subchapter D, Chapter 2165, Government Code,
27 for the location of a building at the following described real

1 property, also known as 203 West Martin Luther King, Jr., Boulevard
2 and designated as Parking Lot 19:

3 The Northeast 1/4, the North 1/2 of the Southeast 1/4, and the
4 East 5 feet of the Northwest 1/4 and East 5 feet of the North 1/2 of
5 the Southwest 1/4, all in Out-lot No. 42, Division "E", in the City
6 of Austin, Travis County Texas.

7 SECTION 7. (a) Except as provided by Subsection (b) of this
8 section, this Act takes effect September 1, 2017.

9 (b) Section [1105.003\(f\)](#), Occupations Code, as amended by
10 this Act, takes effect September 1, 2019.